

Before the
Federal Communications Commission
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Satelites Mexicanos, S.A., DE C.V.

Petition for Declaratory Ruling

File No. SAT-PDR-19991214-00131

Received

FEB 24 2000

Satellite Policy Branch
International Bureau

Supplemental Comments of Telesat Canada

Telesat Canada (“Telesat”), by its attorneys, files these Supplemental Comments¹ to respond to Satelites Mexicanos, S.A., DE C.V.’s (“Satmex’s”) Reply in the above-captioned proceeding.²

Telesat requested that the Federal Communications Commission (“FCC” or “Commission”) postpone inclusion of Satmex 5 on the Permitted Space Station List (“List”) until that satellite is coordinated between Canada and Mexico.³ Satmex replied that coordination of Satmex 5 between Mexico and Canada is “not relevant, under the Commission’s rules, to Satmex’s request to add [Satmex 5] to the List.”⁴ In light of the proximity of Satmex 5 to

¹ Telesat is simultaneously submitting a Motion to File Supplemental Comments pursuant to Section 1.45(c) of the Commission’s Rules. 47 C.F.R. § 1.45(c).

² Public Notice, “Satellite Policy Branch Information Applications Accepted for Filing,” DA No. 00-71, Report No. SAT-00034 (Jan. 14, 2000) (accepting for filing Satmex’s Petition for Declaratory Ruling).

³ Telesat Opposition, at 3 (Jan. 24, 2000).

⁴ Satmex Reply, at 1 (Feb. 8, 2000).

adjacent Canadian orbital positions and the desire to serve customers in the United States from both countries' positions, Telesat respectfully disagrees.

In placing a non-U.S. satellite on the List, the FCC reserves the right "to consider whether communications with that satellite system raise any other public interest concerns. . . ."⁵ While not directly involving the United States, the coordination of Satmex 5 between Canada and Mexico could directly affect delivery of signals between that satellite and earth stations licensed by the United States. By placing Satmex 5 on the List, the FCC would erroneously signal to U.S. ALSAT earth stations that the satellite's U.S. footprint and operating parameters have been conclusively decided. For that reason, Telesat respectfully requests that the United States not create an improper reliance on Satmex 5 until the interference environment is determined, which could affect the quality of service to U.S. users. Therefore, Telesat requests that the Commission postpone inclusion of Satmex 5 on the List until the on-going coordination concludes.

Telesat also notes that Satmex uses Section 25.137(b) of the Commission's rules to define erroneously international coordination as the process between the United States and the foreign satellite.⁶ In fact, this FCC rule is not a definition of international coordination but

⁵ *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Services in the United States*, IB Docket No. 96-111, FCC 99-325 (First Order on Reconsideration) (Oct. 29, 1999) ("*DISCO II First Reconsideration*") (establishing the Permitted Space Station List).

⁶ *See* Satmex Reply at 3 ("Telesat apparently misunderstands the Commission's rules, 25.137(b), which states only that applicants seeking access to non-U.S. space stations need not submit technical information about the non-U.S.-licensed satellite if international coordination – defined as coordination between the U.S. and the non-U.S. licensing administration – has been completed with respect to that satellite.") (emphasis in original); 47 C.F.R. § 25.137(b) (noting that technical data is not required to be submitted when the "international coordination process for the non-U.S. satellite has been completed").

merely indicates that information already filed by the foreign satellite operator during coordination with the United States need not be re-submitted as part of a request for inclusion on the List.⁷ The FCC has indicated, in the order granting Telesat's Anik E1 and Anik E2 status on the List, that the submission of technical information is necessary to determine whether the satellite seeking market entry can "operate interference free in a two-degree spacing environment."⁸ Telesat expresses no opinion on the compliance of Satmex 5 with the FCC's technical rules. Telesat only notes that Satmex did not provide technical data with its request for inclusion on the List and thus, similar to Telesat, the Commission "cannot determine" compliance with two degree spacing.⁹ Telesat intends to provide the necessary technical data for the FCC to determine that its satellites are two degree compliant, and voices no opposition to Satmex's similar provision of technical data.

⁷ *Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Services in the United States*, 12 F.C.C. Rcd 24094, 24176 (Report and Order) (1997) ("*DISCO II Order*") (noting that the FCC does not need additional technical information about the foreign satellite when the "international coordination process has been completed between the United States and the foreign satellite").

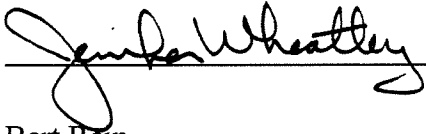
⁸ *Telesat Canada, Request for Declaratory Ruling or Petition for Waiver of Earth Station's Use of ANIK E1 and ANIK E2 Satellite Capacity to Provide Basic Telecommunications Service in the United States*, File No. 116-SAT-STA-98, DA 99-2752 at 15 (Dec. 9, 1999).

⁹ Satmex asserts that the technical information required by 25.114 has been provided by "several applications for earth station authorizations to communications with Satmex 5." Satmex Reply, at 2. The only earth station applications noted by Satmex, however, do not provide such technical data. Satmex Petition for Declaratory Ruling, at n. 3.

For the above reasons, Telesat reaffirms its request that the FCC postpone inclusion of Satmex 5 on the List pending completion of coordination between Canada and Mexico.

Respectfully submitted,

TELESAT CANADA

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February 18, 2000

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of February, 2000, I caused copies of the foregoing **Supplemental Comments of Telesat Canada** to be mailed via first-class postage prepaid mail to the following:

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